

Approved  
7/10/18

**New Milford Zoning Board of Adjustment  
Work Session  
June 12, 2018**

Chairman Schaffenberger called the Work Session of the New Milford Zoning Board of Adjustment to order at 7:30 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Adelung	Present
Ms. Hittel	Present
Mr. Joseph	Absent
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Seymour	Present
Mr. Stokes - Vice Chairman	Present
Mr. Weisbrot	Absent
Mr. Schaffenberger- Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic	Present

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**REVIEW MINUTES OF THE WORK SESSION – May 08, 2018**

The Board Members reviewed the minutes and there were no changes.

**REVIEW MINUTES OF THE PUBLIC SESSION – May 08, 2018**

The Board Members reviewed the minutes and there were no changes

**RESOLUTION**

**18-04 Chen – 140 Hirschfeld Place – Block 1403 Lot 8 – Addition of a Portico**

Front yard setback

**OLD BUSINESS**

**18-03 DeBari – 510 Albert Place- Block 1103 Lot 5 – addition**

Front yard setback and side yard setback

The Chairman stated that the Board Engineer submitted a letter regarding the property.

The Board Members reviewed the application and there were no comments.

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**NEW BUSINESS**

**18-05 Zaken – 355 New Bridge – Block 203 Lot 22 – New Home**

Building coverage

The Borough Attorney noted that this home was a knock down and new construction.

The Chairman stated that the Board Engineer submitted a letter regarding the property.

The Board Members reviewed the application and there were no comments.

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**18-06 Zenion** – 215 Grand Street – Block 1507 Lot 7 – Addition

Building coverage and side yard

The Chairman stated that the Board Engineer submitted a letter regarding the property.

The Board Members reviewed the application and there were no comments.

The Chairman reminded all board members to listen to the training seminar “Asking the Right Questions in Stormwater Review”

The Board Members discussed if there would be a meeting in July and decided to revisit this at the end of the evening.

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Motion to close the work session was made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

**New Milford Zoning Board of Adjustment  
Public Session  
June 12, 2018**

Chairman Schaffenberger called the Public Session of the New Milford Zoning Board of Adjustment to order at 7:57 pm and read the Open Public Meeting Act.

**ROLL CALL**

Mr. Adelung	Present
Ms. Hittel	Present
Mr. Joseph	Absent
Mr. Loonam	Present
Mr. Rebsch	Present
Mr. Seymour	Present
Mr. Stokes- Vice Chairman	Present
Mr. Weisbrot	Absent
Mr. Schaffenberger-Chairman	Present
Mr. Sproviero - Attorney	Present
Ms. Batistic	Present

**PLEDGE OF ALLEGIANCE**

**OFFICIAL MINUTES OF THE WORK SESSION – May 8, 2018**

Motion to accept the minutes was made by Mr. Loonam, seconded by Mr. Stokes and carried by all.

**OFFICIAL MINUTES OF THE PUBLIC SESSION – May 8, 2018**

Motion to accept the minutes was made by Mr. Rebsch, seconded by Ms. Hittel and carried by all.

**RESOLUTION TO BE MEMORIALIZED**

**18-04 Chen – 140 Hirschfeld Place – Block 1403 Lot 8 – Addition of a Portico**

Front yard setback

Motion made by Mr. Loonam, seconded by Mr. Rebsch to memorialize the resolution.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Rebsch, Seymour, Stokes, Hittel.

Approved 5-0

**OLD BUSINESS**

**18-03 Vincent and Desiree DeBari – 510 Albert Place- Block 1103 Lot 5 – addition**

Front yard setback and side yard setback

The Chairman stated that Ms. Hittel has recused herself from this application.

The Board Attorney sworn in Michael Gadaleta, architect, and Vincent DeBari, homeowner.

The Board Members accepted the qualifications of Mr. Michael Gadaleta as a licensed architect.

Mr. Vincent DeBari, homeowner at 510 Albert Place, stated 16 years ago they purchased a small colonial home with two bedrooms 1.5 baths and would like to build an addition for their growing family.

The Board Attorney marked as exhibit A-1 – the application inclusive of the set of plans.

Mr. Michael Gadaleta, representing the applicant, stated the property was irregular shaped and almost a 9,500 sf lot. Mr. Gadaleta explained that the entire block of 1103 consisted of 6 lots. He noted that all 6 lots were irregular shaped lots. The architect stated they were in a neighborhood designed with undersized lots and they were mostly nonconforming so there were issues in the area. Mr. Gadeleta showed a view of the homes in the neighborhood showing it was a challenging neighborhood with homes close to the street and side yards impinged. He stated that homes were skewed to face the circle on Albert, some homes were facing corners so there was a free form in the neighborhood that has happened over time.

Mr. Gadaleta stated the applicant has a modest 1,200 sf home with only two bedrooms. The architect stated the homeowner is proposing a 15'x36' addition on the right side of the property. The reason for the location is because that location would make it easily accessible to get to the second floor and add onto the existing bedrooms. He stated it was impractical to build on the left side on the corner because they would impinge on the street because of the curve of the property.

The architect stated there would be a cellar for a playroom, on the first floor there would be a new family room, ½ bath and mudroom. He explained they were building over the roof of the first floor and building a master bedroom and bath on the second floor.

Mr. Gadaleta said they had a conforming lot of 9,643 sf. He stated as a result of the expansion there would be a covered porch which would create a front yard variance which would result in a front yard setback. The Board Attorney clarified that the existing front yard setback is 22.1' and the required setback from the property line is 30' and with the proposed covered porch the narrowest point is 16.25. Ms. Batistic stated that if the property was squared they would get 50'.

Mr. Gadaleta stated the side yard for the proposed addition adjoins the driveway of the adjoining neighbor. He showed on a map that the adjoining neighbor was on a skew and that home faced Albert Place Island.

The Chairman asked what the existing side yard was for this application. Mr. Gadaleta answered the average was 19.6'. Mr. Gadaleta stated they were seeking a variance from the required side yard of 10' and they were proposing an average of 4.8' from the adjoining property.

Ms. Batistic noticed that Albert Place had a funny shape and the ordinance measures from the center line of Albert Place. Ms. Batistic noted that the center line of Albert Place was over by the island. Ms. Batistic thought they might not technically need a variance for the front yard setback. The Borough Engineer stated this was a unique situation. The Chairman stated he would not

interpret it like that but he would defer to the engineer. The Board Attorney felt they should view this conservatively and that the porch would trigger a front yard setback variance.

Mr. Loonam asked how old the house was. The applicant said it was built in 1922. Mr. Loonam said that looking at the aerial photo of the area with all the irregular shaped lots, it seems that at one time, there were only two lots and they have been subdivided over the years. Mr. Gadaleta showed how homes faced the island and they become shewed with their adjoining neighbors.

Sergeant Michael Rems, Jr., 150 Voorhis Avenue was sworn in by the Board Attorney.

Sergeant Rems stated that his property abuts Mr. DeBari's property on the northern end. He stated the proposed addition would be about 5' from his property and he did not have a problem with it. He explained it would be adjacent to his driveway.

Mr. Stokes asked the neighbor if his windows were facing the addition. Sergeant Rems answered that there were two windows that would be facing the addition.

Mr. Adelung asked the neighbor if his house was setback further than the house to the west. The neighbor said yes.

The Chairman asked if the proposed fireplace would be located on the side of the house with the proposed 5' setback. Mr. Gadaleta said it would be in the front of the house and would not impact the setback.

Mr. Gadaleta had no more testimony to offer.

Mr. Loonam stated there was a lot of room in the back and what were the reasons not to build the addition in that location. Mr. Gadaleta said currently the backyard is a play area but showed on the plans that the addition to the back would upset the flow to the home and it would need more reconstruction to the upper floor. Mr. Loonam asked how many bedrooms they were proposing. Mr. Gadaleta answered three bedrooms. Mr. Loonam felt this was a tough application but felt better that Mr. DeBari's neighbor had no problems with the proposed addition.

Mr. Loonam stated that he did not feel that a 10' side yard was arbitrary. He added that the Zoning Board was here to grant variances for situations like this but felt it was a lot when someone was seeking to exceed greater than 50 percent of that set back. Mr. Loonam felt it should be on the record that, if the Board approves the variance for a 4.8 side yard setback, that the board contemplated and took into account the seriousness of this request. Mr. Loonam said he does not remember ever granting a 4.8 setback. Mr. Loonam felt the house designed was beautiful.

Mr. Gadaleta explained that area was an underutilized area and the addition built on the opposite side of the house and the impact to the street would be far greater. The architect stated this proposed addition would be tucked between the homes and there was a skew so it does not seem to be a 5' side yard. Mr. Gadaleta felt when it was all done, it will look like it has always been there because that corner of the property was out of sight.

Mr. Gadaleta felt the homes in the area were literally right on the street and discussed the issues that exist with the homes in the neighborhood.

Mr. Adelung felt it was important to him that the neighbor was here at the meeting and did not have any issues with the addition. He said looking at the map, the neighborhood has irregular shaped lots. He added that the addition was butting up to the neighbor's driveway. Mr. Adelung was okay with the variances they were seeking.

Mr. Seymour said he puts a lot of weight into what a neighbor says and felt it was very persuasive and that matters a lot to him. Mr. Seymour felt this request for reasonable for this purpose.

The Chairman said he has been on the board for 20 years and does not remember anyone asking for a 4.8' side yard, nevertheless granting a variance for a 4.8' side yard. Mr. Stokes agreed. The Chairman understood why and where they were proposing the addition. He agreed it seems like the logical place for the addition but was not as swayed by a neighbor because when the day comes that either of them are not there, the house will still be there.

Motion to open to the public for comments or questions to the three witnesses was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

No one wished to be heard

Motion to close to the public was made by Mr. Rebsch, seconded by Mr. Stokes and carried by all.

The Board Attorney stated there was a side yard setback and front yard setback variance being requested. Ms. Batistic noted that the side yard setback variance being requested was 4.6'. The Board Attorney said this variance implicated section 70(c)2 where you are balancing the negative and positive criteria but section 70(c)1 was also implicated for topographical hardship.

Mr. Loonam stated this was a difficult application and noted that he did not recall ever granting a variance for a side yard under 5'. He felt the way the application was presented gave him good reason to grant it. Mr. Loonam felt the home was currently modest and was in area of town that had a certain characteristic and felt the architect did a good job to keep up the characteristic of the neighborhood. He felt the applicant has thought out the application very well and they did consider other options and none of them were practical. Mr. Loonam asked if they still were willing to grant a relief for this side yard variance of 5'. He thought the two things that helped him be willing to grant the variance was the neighbor was okay with it and the way the neighbor's house was situated with the driveway. Mr. Loonam did not think the front yard setback had any negative impact on the neighborhood. Mr. Loonam did feel this topography was a hardship. The Chairman asked if there were conditions. The Board Attorney said a condition would be compliance with the engineer's review letter and subject to compliance with COAH requirements.

Motion made by Mr. Loonam to approve the variances requested with the minimum side yard being 4.6' at its smallest position and an average of 4.8' and the front yard setback variance, seconded by Mr. Rebsch.

The motion passed on a roll call vote as follows:

For the Motion: Members Loonam, Rebsch, Adlung, Seymour, Stokes.

Against the Motion: Chairman Schaffenberg

Recused: Ms. Hittel

Approved 5-1

The Chairman felt they did a great job and had no problem with the front yard setback. He understood the hardship and why they proposed the addition on the side but could not approve a 4.6' side yard.

## **NEW BUSINESS**

**18-05 Zaken** – 355 New Bridge Road – Block 203 Lot 22 – New Home  
Building coverage

Chris Blake, architect, 155 North Washington Avenue, Bergenfield NJ, Kevin O'Toole, 357 New Bridge Road, Deborah Zaken, 355 New Bridge Road, Kobi Zaken, 355 New Bridge Road were sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Blake as a licensed architect.

Ms. Zaken said over the past 15 years their house has had issues with flooding, plumbing and the foundation. She stated they could no longer pour money into this house and they needed to build a house that was big enough for the family. Ms. Zaken said this was the house they wanted to live in and they did not want to move. The homeowner said they were keeping with all the setbacks but need a bigger house.

Mr. Kevin O'Toole, neighbor at 357 New Bridge Road, stated he has lived on New Bridge for the past 25 years. He said his street has mostly small Cape Cod homes and over the last 10 years there has been about 5 or 6 conversions to larger homes. He stated the Zaken's were his best neighbors and had no concerns with them renovating their home.

Motion to open to the public to ask questions of this witness was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

No one wished to speak.

Motion to close to the public was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

Mr. Blake said they were proposing a new house on an 8,157 sf property. They have the required lot width and depth and were maintaining the front yard, rear yard and side yard setbacks. Mr. Blake said they had less than 39 percent impervious coverage. The building height will be under

the 30' allowable height, said the architect. Mr. Blake said they were seeking a building coverage variance. The architect explained that the existing lot coverage was 8,157 sf and the building coverage allowed was 1,630 sf and they were proposing 24.53 percent ( 2,001 sf).

Mr. Blake said they were proposing a modest home with keeping with the newer homes in the neighborhood. There would be a one car garage and on the first floor would be a family room, kitchen, living room, dining room and office. The second floor has four bedrooms, three bedrooms and a laundry room. Mr. Blake said this was an average house, modest in size and within the setbacks and keeping with the neighborhood. Mr. Blake said they have a slightly odd shaped property so they had some restrictions with the setbacks. The architect said they have a 186 sf front porch which was important for the looks of the home as well as the practicality of keeping rain and snow off of the front of the house.

Mr. Blake stated it fits in the neighborhood and it is within all the setbacks and height requirements and proposing 24.53% lot coverage.

The Board Attorney said to the board engineer that the zoning officer indicated a height and/or story variance was implicated by the application. Ms. Batistic answered that the height was 29.9' and she did not see anything resulting in more than 2 ½ stories. The Board Attorney clarified that the only variance implicated was building coverage.

Mr. Loonam wanted clarification for the record on the building coverage because the proposed and required numbers appears to be different on the zoning worksheet and the notice of appeal. Mr. Zakin said the correct proposed building coverage is 2,001 sf and required 1,631.40 sf.

Mr. Zaken said they were seeking to go above the allowable coverage. He explained it was non-conforming and understood once the home is demolished, you have to conform to the current zoning requirements. Mr. Zaken said the foundation has a lot of issues and the home has flooded two times.

The Chairman asked how this proposed design would help the flooding. Mr. Blake said just by today's standards vs the mid-1940s standards would be better. They also would work with the grading and comply with the engineering requirements. The Chairman asked if it would make it better. Mr. Blake said it would make it better and they would be doing waterproofing on the exterior. Mr. Zaken added there would be seepage pits plus their current foundation is a cinder block foundation. They would be having a poured concrete insulated on the outside to rectify what they need to do on the outside and inside.

The Chairman stated they were starting with a clean slate and asking for an additional 272 sf building coverage over what is allowed by the zoning ordinance. The Chairman stated that the board needs something more substantial than an applicant just wanting more coverage. He asked what the reason was for the additional 272 sf. Mr. Blake responded that part of it was for the front covered porch and understood it was coverage but it was open air and one story and allows people to see thru it. The Board Attorney asked what was the building coverage for the front porch. Mr. Blake said 186 sf. The Chairman asked if there was any issues with a front yard setback because of the porch. The Board Attorney answered that it would not trigger a variance.



Mr. Blake said currently the property has more square footage of coverage than they were proposing. The architect said they have an existing shed, detached garage and deck so they were not changing the coverage from what is there now. The Chairman explained once the applicant takes it down, the applicant must conform. Mr. Blake understood but said it was important to have this porch. The Chairman asked if the additional structures on the property would be demolished. Mr. Blake agreed that the shed, detached garage and deck would be demolished. The Board Attorney asked if they were proposing an attached garage. Mr. Blake agreed.

Mr. Loonam noted that the impervious coverage has discrepancies on the worksheet. Ms. Batistic said the architectural plans also have different numbers. Mr. Blake said the plans dated May 9, 2018 had the correct numbers. Ms. Batistic clarified that the building coverage that the applicant was seeking is 24.53% (2,001 sf) and the impervious coverage that they were proposing was 38.58%. The Board Attorney noted that the applicant was relying upon and incorporating into their application the zoning requirements and zoning data set forth in the architectural plans dated May 9, 2018 in their request for relief. Mr. Zaken agreed.

Mr. Adelung clarified that the bulk of their coverage was the front porch and their existing coverage is almost the same as their new coverage. He commented that all their setbacks were conforming and the coverage is the same. Mr. Adelung said there was a neighbor that testified that he had no issues with the proposed construction. He added that he did not think they were asking for anything excessive and had no problem with the application.

Mr. Loonam clarified that there was a preexisting non conformity with building coverage of 24.81% and proposing 24.53% coverage. He stated there was an existing one story house and they were proposing a 2 ½ story home.

Motion to open to the public for comments or questions was made by Mr. Stokes, seconded by Mr. Rebsch and carried by all.

No one wished to speak.

Motion to close to the public was made by Mr. Stokes, seconded by Ms. Hittel and carried by all.

Mr. Loonam said this was a very large house but looking at the existing building coverage and the proposed was an improvement and because of the issues with flooding, he did not have a problem with the application.

The Board Attorney stated that there were conditions: Compliance with the engineer's review letter, as built required and subject to compliance with the COAH requirements.

Motion made by Mr. Adelung, seconded by Mr. Rebsch to approve the application.

The motion passed on a roll call vote as follows:

For the Motion: Members Adelung, Rebsch, Loonam, Seymour, Stokes, Hittel, Schaffenberger.

Approved 7-0

**18-06 Zenion** – 215 Grand Street – Block 1507 Lot 7 – Addition  
Building coverage and side yard

Mr. Joseph Bruno, 29 Pascack Road, Park Ridge, NJ, and Mr. Perry Zenion were sworn in by the Board Attorney.

The Board Members accepted the qualifications of Mr. Joseph Bruno as a licensed architect.

The Board Attorney marked as Exhibit A-1 application  
Exhibit A-2 architectural plans  
Exhibit A-2 handout of photos

Mr. Bruno reviewed the photos showing the house and the neighborhood.

The Chairman asked Mr. Bruno if he took these photos. Mr. Bruno answered yes. The Board Attorney asked if these photos had been retouched in any way. Mr. Bruno answered no.

Mr. Bruno said this was a modestly sized home and they were proposing on the first floor to expand the existing dining room and the addition would be 72 sf. They were proposing to expand above that area to create a bedroom. Mr. Bruno said on the opposite side they were proposing a master bath over an existing one story portion of the residence. He noted there would be three bedrooms and two bathrooms on the second floor.

Mr. Bruno said they were seeking two variances. The first was for the exterior side yard setback along Prospect Avenue. He noted that the required setback was 30' proposing 11'01" to match the existing setback. The maximum permitted building coverage was 20% (1,200 sf) and they were proposing 23.95% (1,437sf). Mr. Bruno said in the lot size the required minimum lot area is 7,500 sf and the existing lot is 6,000 sf. The required lot width is 75 sf and existing is 60'. Mr. Bruno said the existing building coverage of 1,365 sf (22.75%) was already non-conforming based on the 6,000 sf. They were proposing 23.95% which was a proposed increase of 72 sf.

There was a hardship because there is a substandard lot as it relates to width and lot area and what exacerbates this was the fact is was a corner lot. The applicant complies with the front yard setback requirement along Grand Street. They will be complying with the height requirements.

Mr. Bruno said with the dense landscaping the proposed addition would not be seen except at the second story. The Chairman asked if the arborvitae trees would remain. Mr. Bruno said they would remain along Prospect Avenue.

Mr. Zenion said he bought his house in 2003 and his girlfriend and son have moved in. They need an additional bedroom for the daughter.

Ms. Batistic said the survey submitted has different existing conditions than the site plan shown on the architectural plan. Ms. Batistic said the driveway location is different and there is a shed. Mr. Bruno said the survey was done prior to the shed and the pavilion. Mr. Bruno said in doing the site plan, he inadvertently flipped the driveway location with the planting area. The

calculations on the plan reflect existing conditions. Mr. Bruno clarified that the existing paver driveway should be along the property line and the planting area would be between the driveway and the pool deck.

The Board Attorney asked what was the building coverage being sought. Mr. Bruno stated they were requesting an additional 72 sf. He added they were proposing 23.95% maximum building coverage. The Board Attorney asked the Board Engineer if the impervious implicated any variances. Ms. Batistic said the plans shows 56.96%.

Motion to open to the public was made by Mr. Stokes, seconded by Ms. Hittel and carried by all. No wished to be heard.

Motion to close to the public was made by Ms. Hittel, seconded by Mr. Rebsch and carried by all.

Motion made by Mr. Adelung, seconded by Mr. Loonam to approve the application.

The motion passed on a roll call vote as follows:

For the Motion: Members Adelung, Loonam, Rebsch, Seymour, Stokes, Hittel, Schaffenberger  
Approved 7-0

Mr. Loonam said this was an application that demonstrated maximum utilization of a property as opposed to over utilization of a property. The fact that it is an undersized lot and with that there are significant limitations as to what the applicant can do. The applicant demonstrated good judgement on how to maximize the lot. Mr. Loonam felt this was a well thought out application.

The Chairman also agreed with Mr. Loonam and appreciated that the applicant did not go up and square off the house. He thought this was an interesting and unique house and was glad he did not over built it.

As there was no further business to discuss, a motion was made by Ms. Hittel, seconded by Mr. Stokes and carried by all.

Respectfully submitted,  
Maureen Oppelaar